

ORIGINAL

PUBLIC MATTER

1 STATE BAR OF CALIFORNIA  
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FILED  
MK  
DEC 03 2018

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

12 In the Matter of:

13 AMIR SAM DIBAEI,  
14 No. 275798,

15 A Member of the State Bar.

) Case No. 17-O-03848, 17-O-05038

) NOTICE OF DISCIPLINARY CHARGES

NOTICE - FAILURE TO RESPOND!

17 IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE  
18 WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT  
THE STATE BAR COURT TRIAL:

- 19 (1) YOUR DEFAULT WILL BE ENTERED;
- 20 (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU  
WILL NOT BE PERMITTED TO PRACTICE LAW;
- 21 (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN  
THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION  
AND THE DEFAULT IS SET ASIDE, AND;
- 22 (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.  
23 SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE  
24 OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN  
ORDER RECOMMENDING YOUR DISBARMENT WITHOUT  
25 FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,  
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. AMIR SAM DIBAEI ("respondent") was admitted to the practice of law in the  
4 State of California on April 26, 2011, was a member at all times pertinent to these charges, and is  
5 currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 17-O-03848  
8 Rules of Professional Conduct, Rule 5-100(A)  
[Threatening Charges to Gain Advantage in Civil Suit]

9 2. Between on or about January 6, 2017 and on or about October 2, 2017, while  
10 representing plaintiffs in a civil lawsuit entitled *Siftly.com LLC, et al. v. Thomas Pulliam*, case  
11 no. BC614174, Los Angeles County Superior Court, respondent threatened to present  
12 disciplinary and criminal charges against the defendant, plaintiffs' former counsel and  
13 defendant's counsel in order to obtain an advantage in the Siftly.com case in willful violation of  
14 the Rules of Professional Conduct, rule 5-100(A), by sending the following communications:

- 15 (a) a January 6, 2017 email to defendants' counsel and plaintiff's former counsel  
16 threatening them with attorney disciplinary charges;
- 17 (b) a second January 6, 2017 email to defendants' counsel and former plaintiff's  
18 counsel threatening them with attorney disciplinary charges;
- 19 (c) a June 7, 2017 email to the defendant, threatening the defendant's former attorney  
20 with attorney disciplinary charges and impliedly threatening to present criminal  
21 charges against the defendant;
- 22 (d) a second June 7, 2017 email to the defendant, impliedly threatening to present  
23 criminal charges against the defendant;
- 24 (e) an August 24, 2017 email to the defendant, defendant's former counsel, and the  
25 principle for Siftly.com, impliedly threatening to present criminal charges against  
26 each of them.
- 27 (f) a September 26, 2017 email to the defendant's former counsel threatening to  
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present attorney disciplinary charges against him;

(g) an October 2, 2017 email to defendant’s former counsel impliedly threatening to present attorney disciplinary charges against him.

COUNT TWO

Case No. 17-O-05038  
Rules of Professional Conduct, Rule 5-100(A)  
[Threatening Charges to Gain Advantage in Civil Suit]

3. On or about July 31, 2017, respondent sent an email to Toni Kilicoglu, the defendant and opposing party to respondent’s client in *Creative Asset Partners, Inc. v. Toni Kilicoglu*, case no. 17R00619, Los Angeles County Superior Court. In the email, respondent attempted to collect money from Kilicoglu by stating “Judgment recorded. You better show up to court or they will issue your warrant.” Respondent thereby threatened to present criminal charges against Kilicoglu in willful violation of the Rules of Professional Conduct, rule 5-100(A).

COUNT THREE

Case No. 17-O-05038  
Business and Professions Code, section 6106  
[Moral Turpitude - Misrepresentation]

4. On or about July 31, 2017, respondent sent an email to Toni Kilicoglu, the defendant and opposing party to his client in *Creative Asset Partners, Inc. v. Toni Kilicoglu*, case no. 17R00619, Los Angeles County Superior Court, stating: “Judgment recorded. You better show up to court or they will issue your warrant.” Respondent’s statements were false and misleading because no judgment had been entered and no proceeding had been instituted for Kilicoglu’s arrest. Respondent thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

5. A violation of section 6106 may result from intentional conduct or grossly negligent conduct. Respondent is charged with committing intentional misrepresentation. However, should the evidence at trial demonstrate that respondent committed misrepresentation as a result of gross negligence, respondent must still be found culpable of violating section 6106

1 because misrepresentation through gross negligence is a lesser included offense of intentional  
2 misrepresentation.

3 COUNT FOUR

4 Case No. 17-O-05038  
5 Business and Professions Code, section 6106  
6 [Moral Turpitude – Coercive Act]

7 6. Between on or about July 20, 2017 and on or about July 31, 2017, while  
8 representing plaintiffs in a civil lawsuit entitled *Creative Asset Partners, Inc. v. Toni Kilicoglu*,  
9 case no. 17R00619, Los Angeles County Superior Court, respondent engaged in abusive and  
10 coercive conduct in an attempt to collect a debt and to collect a sum greater than the judgement  
11 against Kilicoglu, and thereby committed conduct involving moral turpitude, dishonesty or  
12 corruption in willful violation of Business and Professions Code, section 6106 by sending the  
13 following communications:

- 14 a) a July 20, 2017 email to Kilicoglu stating, “I will come after you, your business,  
15 your home and now that you’re married—your wife until I get my money. You  
16 are going to see me a(t) least once a month for the next few years: and that  
17 amount will grow \$250 per hour you see me and 10% per year.” Respondent  
18 stated that for \$38,000 he would cease collection efforts. The judgement against  
19 Kilicoglu was approximately \$25,686.60.
- 20 b) a second July 20, 2017 email to Kilicoglu stating, “I’ll be forwarding a copy of  
21 the judgment to every bank; every officer; every employee; everyone that owes  
22 you a debt; everyone that you owe a debt; and everyone that will be liable for  
23 your judgment. That letter actually went out to about 20 minutes ago to 145  
24 different addresses; names; locations; companies; institutes; reporting agencies;  
25 and persons liable for your judgment... This letter places them on notice that  
26 anyone who owes you or any of your 45 other names money—will be subject to a  
27 lawsuit if they pay you before they pay us.”
- 28 c) a final July 20, 2017, email to Kilicoglu stating, “And so you know: both

1 collections have started and collections will start Monday; all of your assets will  
2 be liened within a month and the record will always be there. If you want to put  
3 an end to all of this make sure you get the 35 [thousand dollars] by the end of  
4 today; you can deposit it straight into my account.”

5 d) a July 31, 2017, email to Kilicoglu stating, “Judgment recorded. You better show  
6 up to court or they will issue your warrant.”

7 7. A violation of section 6106 may result from intentional conduct or grossly  
8 negligent conduct. Respondent is charged with committing intentional misrepresentation.  
9 However, should the evidence at trial demonstrate that respondent committed misrepresentation  
10 as a result of gross negligence, respondent must still be found culpable of violating section 6106  
11 because misrepresentation through gross negligence is a lesser included offense of intentional  
12 misrepresentation.

13 **NOTICE - INACTIVE ENROLLMENT!**

14 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR  
15 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE  
16 SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL  
17 THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO  
18 THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN  
19 INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE  
20 ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE  
21 RECOMMENDED BY THE COURT.**

22 **NOTICE - COST ASSESSMENT!**

23 **IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC  
24 DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS  
25 INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING  
26 AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND  
27 PROFESSIONS CODE SECTION 6086.10.**

28 Respectfully submitted,

THE STATE BAR OF CALIFORNIA  
OFFICE OF CHIEF TRIAL COUNSEL

DATED: December 3, 2018

By:   
\_\_\_\_\_  
KIM KASRELIOVICH  
Senior Trial Counsel

DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): 17-O-03848, 17-O-05038

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 845 South Figueroa Street, Los Angeles, California 90017-2515, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

NOTICE OF DISCIPLINARY CHARGES

By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))

- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles.

By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))

- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles.

By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))

- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ('UPS').

By Fax Transmission: (CCP §§ 1013(e) and 1013(f))

Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.

By Electronic Service: (CCP § 1010.6)

Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

(for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: (see below)

(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested, Article No.: at Los Angeles, addressed to: (see below)

(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS, Tracking No.: addressed to: (see below)

Table with 4 columns: Person Served, Business-Residential Address, Fax Number, COURTESY COPY VIA REGULAR CLASS MAIL. Row 1: Ellen Anne Pansky, Pansky Markle Attorneys at Law, 1010 Sycamore Ave., Unit 308 So. Pasadena, CA 91030-6139, Electronic Address.

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ('UPS'). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: December 3, 2018

SIGNED: Sandra Reynolds (signature) Sandra Reynolds Declarant